

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

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PATTY BEALL, MATTHEW MAXWELL,)
DAVID GRAVELY, TALINA MCELHANY,)
KELLY HAMPTON, CASEY BROWN,)
JASON BONNER, KEVIN TULLOS,)
ANTHONY DODD, ILENE MEYERS,)
TOM O'HAVER, JOY BIBLES, DON)
LOCCHI and MELISSA PASTOR,)
Individually and on behalf of)
all others similarly situated;)
Plaintiffs)
vs.) 2:08-cv-422-TJW
TYLER TECHNOLOGIES, INC., and)
EDP ENTERPRISES, INC.)
Defendants.)

VIDEOTAPED DEPOSITION OF EDP ENTERPRISES, INC.'S
CORPORATE REPRESENTATIVE, ROBERT SANSONE
PORTLAND, MAINE
AUGUST 17, 2010

ATKINSON-BAKER, INC.
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REPORTED BY: Cheryl C. Pieske, RMR
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12 Individually and on behalf of)
13 all others similarly situated;)
14 Plaintiff,)
15 vs.) 2:08-cv-422 TJW
16 TYLER TECHNOLOGIES, INC., and,)
17 EDP ENTERPRISES, INC.,)
18 Defendants.)
19 -----

20
21 Videotaped deposition of ROBERT J. SANSONE,
22 taken on behalf of Plaintiff, at 477 Congress Street,
23 Portland, Maine, commencing at 8:40 a.m., Tuesday, August
24 17, 2010, before Cheryl C. Pieske, RMR, Court Reporter
25 and Notary Public.

1 A P P E A R A N C E S:

2 FOR PLAINTIFFS:

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9 FOR DEFENDANT:

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11 1717 Main Street, Suite 3200
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12 TYLER TECHNOLOGIES, INC.
13 H. LYNN MOORE, ESQ.
General Counsel

14

15 Also Present: Neil Orenstein, Videographer

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1 A. We prepared position descriptions. I talked to 10:03:39
2 the project managers. I recruited for the position. I 10:03:45
3 talked to implementors. Quite a bit because it's -- we 10:03:50
4 have a number of them, and so I was filling a lot of 10:03:58
5 positions, interviewed a lot of candidates. So I had to 10:04:01
6 become familiar with the position. 10:04:05

7 Q. And what did the project manager tell you that 10:04:06
8 made you feel comfortable that the job position was 10:04:09
9 exempt? 10:04:14

10 A. Well, it wasn't just one project manager, first 10:04:14
11 of all. 10:04:20

12 Q. Sure. 10:04:20

13 A. It was several. But that the implementation 10:04:20
14 process is dynamic and unpredictable and that there are 10:04:25
15 many components of it, and you cannot totally prepare 10:04:29
16 somebody for what they're going to face when they go on 10:04:35
17 site; and the -- a candidate or implementation specialist 10:04:37
18 has to be able to deal with the unknown, the unforeseen, 10:04:44
19 and figure out a way to get the process moving again and 10:04:49
20 resolve problems that come up that no one would have 10:04:54
21 known about or predicted. 10:04:57

22 Q. Anything else? 10:04:59

23 MR. MCKEEBY: The anything else is -- what's the 10:05:02
24 underlying question, what he was told? 10:05:08

25 MS. BAGLEY: What he was told by the project 10:05:10

1 managers that he spoke with. 10:05:12
2 A. They also told me that the job was 10:05:13
3 multi-faceted, that there was consulting with the 10:05:17
4 customer on how to do things with choices, and did they 10:05:22
5 want to set it one way or another, and if they did it one 10:05:27
6 way, these would be the consequences and the benefits; 10:05:30
7 and if they did it another way, these are the 10:05:32
8 consequences and benefits, and possibly coming up with a 10:05:35
9 third way that no one had ever done before that fits that 10:05:39
10 customer, and that may or may not ever happen again. 10:05:42
11 They're all unique situations. 10:05:46
12 Q. Anything else? 10:05:48
13 A. There were many other things, but that was a 10:05:53
14 long time ago and -- 10:06:00
15 Q. Okay. Well, I'm assuming you have engaged in 10:06:01
16 such an evaluation since that time. 10:06:04
17 A. Uh-hmm. 10:06:06
18 Q. Correct? 10:06:06
19 A. Well, not a formal evaluation because, again, 10:06:07
20 I'm pretty comfortable with it being -- 10:06:11
21 Q. Go ahead. 10:06:14
22 A. -- being exempt. 10:06:15
23 Q. Okay. 10:06:16
24 A. I've never heard anything to the contrary that 10:06:17
25 has made me think that they weren't. 10:06:19

1 Q. So your present day comfortableness with regard 10:06:21
2 to the exempt status of the implementation consultant 10:06:26
3 position is based partly on the evaluation you were 10:06:29
4 involved with in 1995 with MUNIS, correct? 10:06:34
5 A. Yes. 10:06:37
6 Q. All right. And since that time, there has been 10:06:37
7 nothing that you have learned that has made you change 10:06:40
8 your mind about the exempt status of that position, 10:06:42
9 correct? 10:06:47
10 A. That's correct. 10:06:47
11 Q. Now, you also said you spoke to several 10:06:47
12 implementors about the job position and gained some 10:06:50
13 information from them. Did you learn anything other than 10:06:55
14 what you've already told us about when you spoke to the 10:06:58
15 project managers? 10:07:02
16 A. No, I did not. 10:07:07
17 Q. Okay. So my understanding, then, from your 10:07:08
18 testimony is that your -- your decision or your under -- 10:07:12
19 strike that. From what I understand from your testimony, 10:07:18
20 your belief that the implementation consultant position 10:07:26
21 is an exempt position under the Fair Labor Standards Act 10:07:30
22 is based on information you obtained from project 10:07:33
23 managers and implementation consultants and included job 10:07:36
24 duties that were dynamic and unpredictable, that you 10:07:42
25 could not totally prepare someone for the job. Is that 10:07:50

1	correct?	10:07:55
2	A. Actually, it's reversed.	10:07:55
3	Q. Okay.	10:07:57
4	MR. MCKEEBY: Hold on. Object to the form of the	10:07:57
5	question. You can answer, if you understand.	10:07:58
6	A. Yeah. The implementation process is dynamic	10:08:03
7	and unpredictable.	10:08:06
8	BY MS. BAGLEY:	10:08:06
9	Q. Right.	10:08:07
10	A. And I believe you said you can't prepare them	10:08:07
11	for the job?	10:08:10
12	Q. Right, I think that's one of the things you	10:08:11
13	said, you can't totally prepare someone.	10:08:13
14	A. For the -- well, "job" isn't the right word but	10:08:14
15	for what's going to happen when they get to the site.	10:08:17
16	Q. Okay. And that the implementation consultant	10:08:19
17	deals with unknown and unforeseen things at the site?	10:08:23
18	A. Yes.	10:08:26
19	Q. And that the implementation consultant is	10:08:26
20	responsible for resolving problems?	10:08:31
21	A. Uh-hmm. Yes.	10:08:33
22	Q. And that the position is multi-faceted; is that	10:08:34
23	correct?	10:08:39
24	A. Yes.	10:08:39
25	Q. And that the implementation consultant has to	10:08:39

1 consult with the customer regarding options and provide 10:08:44
2 the customer with the consequences and benefits regarding 10:08:48
3 different options that are available within the software? 10:08:52
4 A. That's correct. 10:08:55
5 Q. Okay. Can you think of anything else that you 10:08:56
6 based your decision on that the job position of 10:08:59
7 implementation consultant was an exempt position under 10:09:04
8 the Fair Labor Standards Act? 10:09:06
9 MR. MCKEEBY: Object to the form of the question. 10:09:08
10 You can answer. 10:09:11
11 A. Nothing else comes to mind at the moment but 10:09:13
12 there are -- there are many factors that contribute, but 10:09:22
13 those are the major ones. 10:09:26
14 Q. Now, I want -- I want to ask a little more 10:09:28
15 specific question. What -- did you make a determination 10:09:31
16 with regard to each of these different job 10:09:35
17 responsibilities that required the exercise of 10:09:42
18 discretion? 10:09:45
19 A. Did I? Yes. 10:09:50
20 Q. Okay. And what did you consider to be an 10:09:52
21 exercise of discretion within the job responsibilities 10:09:55
22 that you have outlined for us? 10:10:01
23 A. Well, all of them. 10:10:02
24 Q. And did you make a -- a specific evaluation of 10:10:06
25 the discretion used? For instance, did you -- with 10:10:17

1 Q. Now, it's my understanding that the only 11:09:08
2 exemption that is being asserted with regard to the 11:09:12
3 implementor position is administrative exemption; is that 11:09:21
4 correct? 11:09:25

5 MR. MCKEEBY: Well, I don't know. 11:09:25

6 BY MS. BAGLEY: 11:09:28

7 Q. Strike that. Let me start over. What 11:09:28
8 exemption is Tyler Technologies relying on for purposes 11:09:32
9 of classifying implementors as exempt? 11:09:38

10 MR. MCKEEBY: He's not equipped to answer that 11:09:41
11 question, and I'm not trying to be tricky. It's just the 11:09:43
12 administrative exemption, but I haven't prepared him to 11:09:47
13 testify on behalf of the company about the defenses in 11:09:51
14 the case. 11:09:53

15 MS. BAGLEY: I'm not -- and I'm not asking about the 11:09:55
16 defenses. I'm asking in his mind, in Tyler's corporate 11:09:57
17 decision making -- 11:10:04

18 MR. MCKEEBY: Okay. 11:10:04

19 MS. BAGLEY: -- process, what exemption were they 11:10:06
20 using? 11:10:08

21 MR. MCKEEBY: Okay. 11:10:09

22 MS. BAGLEY: -- to -- you know, what part of the 11:10:12
23 exempt classifications was Tyler relying on for purposes 11:10:18
24 of saying that the implementor position was exempt? 11:10:21

25 A. The implementor position, you mean 11:10:24

1 implementation consultant or specialist? 11:10:27
2 Q. Right. 11:10:28
3 A. Okay. 11:10:28
4 Q. I'm saying that because we have got the 11:10:29
5 different terms. So implementor just seems to be -- 11:10:32
6 A. Uh-hmm, okay. 11:10:32
7 Q. -- the wrong way to say it. 11:10:34
8 A. The administrator. 11:10:34
9 Q. Okay. Are there any other exemptions that 11:10:36
10 Tyler Technologies is relying on for purposes of 11:10:39
11 classifying implementors as exempt under the Fair Labor 11:10:44
12 Standards Act? 11:10:48
13 A. No. 11:10:48
14 Q. Have you or any of the other HR directors 11:10:49
15 reviewed Department of Labor decisions to determine 11:11:02
16 whether the implementor position was exempt or nonexempt? 11:11:07
17 A. Not specifically to implementation consultants 11:11:14
18 but when I get notices from professional organizations, I 11:11:18
19 read them about positions being classified as exempt or 11:11:23
20 nonexempt, but I've never seen one that directly ties to 11:11:28
21 implementation consultant. 11:11:32
22 Q. Are you aware that there are Department of 11:11:32
23 Labor decisions that discuss computer software training 11:11:36
24 and similar implementor positions? 11:11:41
25 MR. MCKEEBY: You can answer. 11:11:45

1	A. I'm aware of the recent changes to the act.	11:11:46
2	MR. MCKEEBY: That wasn't her question.	11:11:52
3	THE DEPONENT: I'm sorry.	11:11:54
4	MR. MCKEEBY: Would you repeat your question?	11:11:55
5	A. I am not aware of any recent decisions	11:11:57
6	affecting implementation consultants, if that's your	11:12:00
7	question.	11:12:02
8	BY MS. BAGLEY:	11:12:03
9	Q. And it wasn't limited to recent decisions. Are	11:12:03
10	you aware of any decisions of the Department of Labor	11:12:05
11	that deal with computer positions?	11:12:07
12	A. Computer positions? That's --	11:12:14
13	Q. Positions that involve implementation of	11:12:16
14	computer software?	11:12:19
15	A. No, I'm not.	11:12:20
16	Q. During the time that you were involved with the	11:12:39
17	Courts and Justice evaluation, was there a determination	11:12:43
18	at that meeting that the telephone support position	11:12:48
19	should be changed from exempt to nonexempt?	11:12:53
20	MR. MCKEEBY: Object. That's outside the scope of	11:12:58
21	the designation.	11:13:01
22	MS. BAGLEY: Okay.	11:13:02
23	MR. MCKEEBY: I instruct him not to answer questions	11:13:03
24	that are outside the scope of the designation.	11:13:05
25	BY MS. BAGLEY:	11:13:05